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Attorneys for Defendant Prometheus Global Media, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PENSKE MEDIA CORPORATION,
dba PMC, a Delaware corporation,

Plaintiff.

V.

PROMETHEUS GLOBAL MEDIA,
LLC, a Delaware limited liability
company d/b/a hollywoodreporter.com;
and DOES 1 through 10, inclusive.

Defendants.

Case No.: CV 11-7560-JST (MRW)
Hon. Josephine Staton Tucker
Magistrate: Hon. Michael R. Wilner
DISCOVERY MATTER:
DECLARATION OF STEVEN B.
STIGLITZ IN OPPOSITION TO
DEFENDANT PROMETHEUS
GLOBAL MEDIA, LLC'S NOTICE
OF MOTION AND JOINT
STIPULATION RE: FURTHER
RESPONSES TO WRITTEN
DISCOVERY PROPOUNDED TO
PLAINTIFF PENSKE MEDIA
CORPORATION

**JOINT STIPULATION,
DECLARATION OF ANTHONY
SBARDELLATI; AND [PROPOSED]
ORDER (filed concurrently)**

Action filed: September 14, 2011
Discovery Cut-off: November 9, 2012
Pre-Trial Conf.: June 28, 2013
Trial Date: July 9, 2013
Hearing Date: January 9, 2013

1
DECLARATION OF STEVEN B. STIGLITZ

2 I, Steven B. Stiglitz, declare as follows:

3 1. I am a member of the bar of the State of California and an associate with the
4 law firm of Freedman & Taitelman, LLP, counsel for the plaintiff in the above-captioned
5 litigation, Penske Media Corp ("Penske"). I am responsible for making and keeping the
6 litigation file in the above-captioned litigation (the "Action") and am familiar with the
7 documents therein. I make this declaration of my personal, firsthand knowledge and, if
8 called and sworn as a witness, I could and would testify competently thereto.

9 2. Attached hereto as Exhibit A is a true and correct copy of defendant
10 Prometheus Global Media, LLC's ("Prometheus") Initial Disclosures served in the
11 Action.

12 3. On or about July 11, 2012, I met and conferred by telephone with counsel
13 for Prometheus, Anthony Sbardellati and Jeremy Feigelson. During that telephone call,
14 we discussed the parties differences regarding Penske's objections and responses to
15 Prometheus' written discovery at issue in this motion. Although I did take the position
16 that Penske would stand on its objections to the two interrogatories at issue, I did not take
17 the position that Penske would stand on its objections to the document requests. To the
18 contrary, I stated that, to the extent Penske did not believe it had non-privileged
19 responsive documents that Prometheus' did not already have, but that, to the extent it did,
20 Penske would be willing to produce such documents, subject to a protective order.
21 Immediately following the meet and confer session, the protective order remained an
22 obstacle, thus preventing a resolution. The parties then engaged in mediation and
23 settlement negotiations, during which time the parties did not revisit the issue of the
24 protective order or the production of documents.

4. On November 19, 2012, I sent an email to Prometheus' counsel, reiterating Penske's prior position that Penske would produce responsive, non-privileged documents that Prometheus did not already have, subject to a protective order. I also stated that Penske would agree to Prometheus' prior proposal that each party submit its proposed protective order to the Court for its consideration. Attached hereto as Exhibit A is a true and correct copy of the email that I sent to Prometheus' counsel. Prometheus' counsel initially responded only as to Penske's motion to compel further responses. To the best of my recollection, Prometheus' counsel did not raise the issue of Penske's responses to discovery until serving its portion of the accompanying joint stipulation.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct and that this document was executed this 28th day of November 2012, in the County of Los Angeles, California.

/s/
STEVEN B. STIGLITZ

EXHIBIT “A”

Steven Stiglitz

From: Steven Stiglitz
Sent: Monday, November 19, 2012 3:49 PM
To: 'Anthony Sbardellati'
Cc: Eve Wagner; Bryan Freedman; Jesse Kaplan
Subject: RE: Penske/Prometheus

Anthony,

I tried calling you about this earlier today.

As discussed on Friday, PMC served its portion of the joint stipulation on October 17, and Prometheus has had more than a month to prepare its response. Per your request, we made several minor non-substantive changes to the stipulation, but the substance of PMC's revised portion the joint stipulation was identical. Therefore, Prometheus should have had its portion of the joint stipulation prepared weeks ago.

In any event, I still think that we should be able to resolve this dispute with relative ease. As an initial matter, Prometheus previously agreed that much of the pending written discovery is appropriate and would be produced subject to the entry of a protective order. In fact, our dispute largely centered on the scope of the proposed protective order.

Therefore, PMC proposes that we file a joint stipulation today which would attach each side's proposed protective order; (2) request that the court enter the proposed protective order that it believes is the most appropriate; and (3) that Prometheus agree to respond to the pending written discovery requests within 20 days of the entry of an appropriate protective order. That protocol would avoid a motion to compel regarding the written discovery.

If Prometheus does not agree to these terms, then PMC will file its motion on Thursday upon receipt of your portion of the joint stipulation. In connection with that motion, PMC will argue that any perceived defect with the timing of the motion was caused by Prometheus' failure to timely provide us with its portion of the joint stipulation.

Note that PMC reserves all rights, including the right to preclude Prometheus under Rule 37(c) from relying on or presenting certain evidence at trial.

Steve

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From: Anthony Sbardellati [mailto:asbardellati@swattys.com]

Sent: Monday, November 19, 2012 12:59 PM

To: Steven Stiglitz

Cc: Eve Wagner

Subject: Penske/Prometheus

Steve,

I'm writing in furtherance of our conversation of last Friday, and Eve's Friday email to you. The parties may not agree on where things stand with respect to discovery, but we continue to believe that Penske should at least work with us to tee up any dispute for the court in an orderly way.

We continue to believe that discovery is over and that any motion to compel would be untimely. Among other concerns, the draft Joint Stipulation which you circulated on November 14 is not in compliance with Local Rule 37, and - given the November 19 deadline to file motions to compel, and the seven-day notice requirement of Local Rule 37 – Penske's submission of the Joint Stipulation to Prometheus on November 14 was too late.

If Penske still intends to make a motion, then - without waiving objections to timeliness and to the form of Penske's November 14 document – we are prepared to provide Prometheus's portion of the Joint Stipulation to you by the close of business on November 21, i.e., seven days after we received the draft Joint Stipulation from you. As noted in Eve's email last Friday, we will assert the timeliness issue in our portion of the joint submission, and we will also assert that if the court does consider the substance of the discovery dispute, it should treat the submission as cross-motions and compel Penske to cure its discovery defaults.

Please let us know whether Penske intends to attempt a motion and its position on our offer to provide our piece of a Joint Stipulation by the 21st.

Thank you.

Anthony D. Sbardellati

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